

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The amendment changes the manner by which a respondent receives a copy of a complaint filed with the Board. Under current board practice, the respondent receives a copy of the complaint at the beginning stage of the investigation. With this change, the respondent will receive a copy only after the Board has found probable cause.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8143B**. Public hearings on the amendment were held on Tuesday, September 29, Wednesday, September 30, and Thursday, October 1, 2009. Twelve people attended the public hearings. Ninety-five written comments were received. A total of 107 participated during the notification period. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective January 20, 2010.

The following amendment is adopted.

Amend subrules 11.4(3) to 11.4(5) as follows:

11.4(3) *Required copies—place and time of filing the complaint.*

~~a. In addition to the original, a sufficient number of copies~~ A copy of the complaint must be filed to enable service of one copy to each of the respondents and retention of 12 copies for use by with the board.

~~b. The complaint must be delivered personally or by mail to the office of the board. The current office address is the Grimes State Office Building, Third Floor, Des Moines, Iowa 50319-0147.~~

~~c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay. The conduct upon which it is based must have occurred or been discovered by the complainant within three years of filing of the complaint unless good cause is shown for an extension of this limitation.~~

~~**11.4(4) *Service of complaint.* The board or a designee of the board shall serve a copy of the complaint upon the respondent by one of the following means:**~~

~~a. Personal service as provided in the Iowa Rules of Civil Procedure; or~~

~~b. Certified mail, return receipt requested; or~~

~~c. First-class mail; or~~

~~d. Publication, as provided in the Iowa Rules of Civil Procedure.~~

~~**11.4(5) *Amendment or withdrawal of complaint.*** A complaint or any specification thereof may be amended or withdrawn by the complainant at any time. The parties to a complaint may mutually agree to the resolution of the complaint at any time in the proceeding prior to issuance of a final order by the board. The resolution must be committed to a written agreement and filed with the board. The agreement is not subject to approval by the board, but shall be acknowledged by the board and may be incorporated into an order of the board.~~

~~**11.4(5) *Form and content of the complaint notice to the respondent.***~~

~~a. The complaint notice to the respondent shall be in writing.~~

~~b. The complaint notice to the respondent shall contain the following information:~~

~~(1) The full name, address, and telephone number, if known, of the respondent.~~

~~(2) A concise statement of the facts which clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance.~~

~~(3) An explanation of the facts underlying the complaint.~~

(4) A citation to the specific rule or law which the complainant alleges has been violated.

[Filed 11/25/09, effective 1/20/10]

[Published 12/16/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/16/09.